

TRIAL EXHIBIT 339

From: Andy Rubin.
To: [-] lindholm Timothy; Richard Miner; Chris DiBona; David Lee.
Cc: [-] .
Bcc: [-] .
Subject: FYI.

FMG deal review enclosed.

FMG is finance. We then go to EMG.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TRIAL EXHIBIT 339

CASE NO. 10-03561 WHA

DATE ENTERED _____

BY _____
DEPUTY CLERK



Open Handset Alliance

Andy Rubin and Android team



Project Android



We are building the world's first Open Source handset solution with built-in Google applications

We are forming an alliance with interested parties to make this free platform the de facto standard for modern handsets

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Partner Overview - Sun Microsystems



Who Are They?

- Products and services for network computing
 - Java dominates wireless industry
 - Carriers require Java in their terminal terminal specifications
- Statistics
 - Not profitable
 - \$15.4B Market Cap
 - \$11.6B revenue
 - \$469M EBITDA
 - \$2.45B cash
- Market Presence
 - xxx Java embedded handsets
 - xxx carrier relationships
- Size
 - xx offices worldwide
 - xxx employees

Why Do the Deal?

- Critical to our open source handset strategy
- Dramatically accelerates our schedule
- Form an industry alliance to block MSFT
- Create value for wireless stakeholders

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Status



- Discussions started as result of our last GPS
- Alliance consists of key players of the wireless industry, including handset OEMs and wireless carriers
- Sun becomes founding partner in alliance
- Companies engage in a co-development relationship

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Proposed Deal Terms



Client	<ul style="list-style-type: none"> Sun Microsystems
Term	<ul style="list-style-type: none"> 3 years Co-development partnership
Proposal	<ul style="list-style-type: none"> Sun makes Java Open Source as part of Android platform Companies work together to bring Android platform to market
Exclusivity	<ul style="list-style-type: none"> Exclusive
Data Use / Restrictions	<ul style="list-style-type: none"> See detailed slides
Fee	<ul style="list-style-type: none"> \$25-50M To be negotiated potential rev share on platform-enabled mobile ads
Attribution	<ul style="list-style-type: none"> N/A
Termination / Other Issues	<ul style="list-style-type: none"> N/A

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Terms



- Sun will open source CDC JavaME by “m/m/m” date
- Google and Sun will produce the “Open Source Java Linux Mobile platform” by “n/n/n” date
 - Sun to govern the CDC codebase with partial governance by Google
 - Google to govern the Linux codebase with partial governance by Sun
- Sun to provide a commercial implementation of the “Open Source Java Linux Mobile platform”
 - Google to provide backline support for the “Linux Mobile platform”
- Google agrees NOT to offer commercial implementations of the “Open Source Java Linux Mobile platform” or similar stack except as necessary for initial launch


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Terms (cont'd)



- Sun agrees to adopt certain key Google enablers (JavaScript, others tbd) in CDC and Google agrees to adopt appropriate Sun enablers in Linux stack
- Google provides Sun with all Google owned handset technologies, un-encumbered rights, from day one. Sun can only ship this technology commercially after it has been open sourced
- Sun provides Google with all Sun owned CDC JavaME technologies, un-encumbered rights, from day one. Google can only ship this technology commercially after it has been open sourced
- Sun and Google to promote the Java Brand for mobile
- Google to certify their applications on Sun's commercial implementations

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Terms (cont'd)



- Sun and Google will jointly engage in recruiting OEMs and Service Providers
- Sun intends to monetize the commercial implementation of the “Open Source Java Linux Mobile Platform” Stack and services around it (support, ES, updates/upgrades, customizations + IP value add) in the following areas. This list is not intended to be comprehensive and does not restrict Google from providing underlying technology:
 - Device management
 - Security upgrades / Patch management
 - User interface customization for OEMs, MVNOs, carriers
 - Enterprise level synchronization
 - Network quality monitoring
 - User experience customization based on device usage

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Terms (cont'd)



- Google agrees to adopt and promote NetBeans and Sun Java Wireless Tool Kit (WTK) along with its tools. Where appropriate, companies will merge their tools
- Where appropriate, Mobile client apps provided by Google to work with Sun backend
- Google Open Source License to be ASF2.0
- Sun Open Source License to be decided with the goal:
 - Non viral
 - Non discriminatory, equal access
 - No field of use restrictions
 - Freely distributed
 - Compatible with an existing license

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Financial compensation



- Google compensates Sun for current business risk
 - Estimated cost: \$25-50M
- If Google recognizes \$s from services running on “Open Source Java Linux Mobile platform” or derivatives, Google will revenue share with Sun

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Key Asks



- Approve joint development
- Approve to proceed to contract
- Approve spend ranges
- Approve to enter into multi-party discussions

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